IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Craig Ogg
        Appellant

Application No.: 10/677,619	Confirmation No.: 8929
Filed: October 2, 2003	Art Unit: 3628
For: SYSTEM AND METHOD FOR HIGH-SPEED POSTAGE APPLICATION MANAGEMENT	Appellee: T. S. Joseph

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

As required under 37 C.F.R. § 41.37(a), this brief is filed within two months of the Notice of Appeal filed in this case on March 11, 2009, and is in furtherance of said Notice of Appeal.

The fees required under 37 C.F.R. § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1206:

I.	Real Party in Interest
II.	Related Appeals and Interferences
III.	Status of Claims
IV.	Status of Amendments
V.	Summary of Claimed Subject Matter
VI.	Grounds of Rejection to be Reviewed on Appeal

I.   REAL PARTY IN INTEREST

The real party in interest for this Appeal is:

Stamps.com Inc.

12959 Coral Tree Place

Los Angeles, CA 90066-7020

II.   RELATED APPEALS AND INTERFERENCES

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this Appeal.

III.   STATUS OF CLAIMS

A.   Total Number of Claims in Application

There are 19 claims pending in application.

B.   Current Status of Claims

1.   Claims canceled: 8, 13, and 21

2.   Claims withdrawn from consideration but not canceled: None

3.   Claims pending: 1-7, 9-12, 14-20, and 22

4.   Claims allowed: None

5.   Claims rejected: 1-7, 9-12, 14-20, and 22

C.   Claims on Appeal

The claims on appeal are claims 1-7, 9-12, 14-20, and 22

IV.   STATUS OF AMENDMENTS

Appellant did not file an Amendment after the Office Action mailed on December 11, 2008 (hereinafter the "Final Action"). As such, the claims on Appeal remain in the same form as they were in the Response mailed on May 16, 2008 (hereinafter the "Previous Response").

V.   SUMMARY OF CLAIMED SUBJECT MATTER

The following provides a concise explanation of the subject matter defined in each independent claim involved in the Appeal, referring to the specification by p. and line number and to the drawings by reference characters, as required by 37 C.F.R. § 41.37(c)(1)(v). Each element of the claims is identified by a corresponding reference to the specification and drawings where applicable. However, the citation to passages in the specification and drawings are made by way of example only for the convenience of the board, and does not imply that the limitations from the specification and drawings should be read into the corresponding claim element.

According to independent claim 1, the subject matter is a high speed mail processing system (p. 6, lines 19-25; Fig. 1, 100) having a conveyor system (p. 7, line 8; Fig. 1, 11), for transferring a plurality of mail pieces (p. 7, line 6), among two or more mail processing components (p. 7, lines 7-10; Fig. 1, 102, 103), and a controller for directing operations of the components (p. 7, lines 5-6; Fig. 1, 101). The system of claim 1 comprises a postage computing device for separately calculating postage value due for each individual mail piece of a plurality of mail pieces (p. 7, lines 14-15; Fig. 1, 15). The postage computing device is operable to use the calculated postage value (p. 9, lines 21-22), to generate an information based postage indicia for a mail piece (p. 9, lines 22-23) of the plurality of mail pieces (p. 7, lines 14-21), in parallel (p. 9, lines 21-22), with the mail piece of said plurality of mail pieces being physically created and processed (p. 9, lines 18-20) by at least one mail processing component (p. 9, lines 19-21) of said two or more mail processing components (p. 9, lines 20-23; Fig. 2, 203). The system of claim 1 also includes a postage application printer (p. 9, lines 24-25; Fig. 1, 104), positioned to print the

information based postage indicia (p. 9, lines 20-24), on the mail piece (p. 9, lines 24-25), of said plurality of mail pieces that is being moved by the conveyor system, wherein the information based postage indicia is available for printing by the postage application printer at the time the mail piece of the plurality of mail pieces arrives at the postage application printer (p. 10, lines 19-21). Claim 1 also comprises a computer processing system (p. 10, lines 7-12), for storing information related to the processing of each individual mail piece of the plurality of mail pieces (p. 9, line 26; p. 10, line 3; p. 10, lines 7-12), and for providing the controller with the processing information (p. 9, line 26; p. 10, line 12).

According to independent claim 11, the subject matter is a method for applying postage to mail pieces (p. 9, lines 24-25) in a high-speed mail processing system (p. 6, lines 20-26; Fig. 1, 100). The method of claim 11 comprises receiving processing instructions that identify how each mail piece of a plurality of mail pieces should be processed (p. 7, lines 4-6), and controlling the components of the high-speed processing system to comply with the processing instructions (p. 7, lines 6-13). The method of claim 11 also comprises individually calculating a postage value for each mail piece (p. 7, lines 14-21), and generating an information based postage indicia (p. 9, lines 20-25), using the calculated postage value (p. 7, line 14), for an individual mail piece (p. 7, lines 15-16), in parallel with the individual mail piece being physically processed by one or more of the components (p. 9, lines 18-21), including at least one of a folder and an inserter, of the high-speed mail processing system (p. 9, lines 18-20). The method of claim 11 further comprises printing the calculated postage value on each mail piece (p. 7, lines 14-21), wherein the information based postage indicia is available for printing at the time the individual mail piece of said each mail piece of said mail pieces arrives at a printer for said printing (p. 10, lines 19-22).

According to independent claim 19, the subject matter is a system for processing mail pieces (p. 7, lines 20-21). The system includes a means for receiving processing instructions that identify how each mail piece should be processed (p. 10, lines 19-22). The system further includes a means for controlling the components of a high-speed processing system in accordance with the processing instructions (controller, Fig 1, 101; p. 7, lines 6-12). The system also provides for a means for calculating a postage value for each individual mail piece (postage

computing device, Fig. 1, 15; p. 7, lines 14-16), based upon a count of the number of documents included in each individual mail piece and the weights of the documents (p. 8, lines 11-14). The postage value is calculated without weighing the individual mail piece (p. 8, line 12), using information from the processing instructions (p. 8, lines 6-14), and in parallel with the high-speed processing of the mail piece (p. 9, lines 20-21). The system of claim 19 also comprises a printer controlled in accordance with the processing instructions (p. 8, lines 13 and 14), for printing the calculated postage value on each mail piece (p. 10, lines 15, 16, and 19-22).

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A.   First Grounds and Rejection

Claims 1-7, 9-12, 14-20, and 22 are rejected under 35 U.S.C. § 112 second paragraph, as being indefinite.[1]

B.   Second Grounds and Rejection

Claim 1 is rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,742,878, as to Freeman et al. (hereinafter "*Freeman*"), in view of U.S. Publication No. 2001/0042052 as to Leon (hereinafter "*Leon*").

C.   Third Grounds and Rejection

Claims 2 and 5-6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Freeman* in view of *Leon* in further view of U.S. Patent No. 5,612,888, as to Chang et al. (hereinafter "*Chang*").

D.   Fourth Grounds for Rejection

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Freeman* in view of *Leon* in further view of U.S. Patent No. 6,041,569, as to Freeman (hereinafter "*Freeman 2*").

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[1] Appellant notes that the *Final Action*, is unclear as to whether Claims 1-7, 9-12, 14-20, and 22 are rejected under 35 U.S.C. § 112 second paragraph, as being indefinite. While Appellee notes that Appellant's arguments "have been fully considered but they are not persuasive," Appellee did not maintain the rejection in the body of the *Final*

E.   Fifth Grounds for Rejection

Claims 3, 4, 9, and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Freeman* in view of *Leon* in further view of U.S. Patent No. 6,173,274, as to Ryan, Jr. (hereinafter "*Ryan*").

F.   Sixth Grounds for Rejection

Claims 11, 12, 15, 16, and 18 are rejected under 35 U.S.C. § 103(a) as being anticipated by *Ryan* in view of *Freeman* in further view of *Leon*.

G.   Seventh Grounds for Rejection

Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ryan* in view of *Freeman* in further view of *Leon* and U.S. Patent No. 5,079,714, as to Manduley et al. (hereinafter "*Manduley*").

H.   Eighth Grounds for Rejection

Claim 17 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ryan* in view of *Freeman* in further view of *Leon* and *Chang*.

I.   Ninth Grounds for Rejection

Claim 19 is rejected under 35 U.S.C. § 103(a) as being anticipated by *Ryan* in view of *Freeman* in further view of *Leon* and U.S. Publication No. 2004/0088267, as to Rasmussen et al. (hereinafter "*Rasmussen*").

J.   Tenth Grounds for Rejection

Claim 20 is rejected under 35 U.S.C. § 103 (as being unpatentable over *Ryan* in view of *Freeman* in further view of *Leon* and *Rasmussen,* and *Official Notice* as supported by U.S. Patent No. 5,468,945, as to Hugget et al. (hereinafter "*Hugget*").

Action. Additionally, Appellee fails to address arguments with respect to claims 4, 11, and 19, which were brought forth by Appellant in the *Previous Response*.

K.   Eleventh Grounds for Rejection

Claims 22 is rejected under 35 U.S.C. § 103(a) as being anticipated by *Ryan* in view of *Freeman* in further view of *Leon* and *Rasmussen*.

VII.   ARGUMENT

Appellant respectfully traverses the outstanding rejections of the pending claims, and requests that the Board reverse the rejections in light of the remarks contained herein. The claims do not stand or fall together. Instead, Appellant presents separate arguments for various independent and dependent claims. Each of these arguments are separated below and presented with separate headings and sub-heading as required by 37 C.F.R. § 41.37(c)(1)(vii).

A.   First Grounds for Rejection

Claims 1-7, 9-12, 14-20, and 22 may be rejected under 35 U.S.C. § 112 second paragraph, as being indefinite. Specifically, Appellant is uncertain as to the status of this rejection because the Final Office Action, dated December 11, 2008 (hereinafter "Final Action"), does not maintain this rejection. However, Appellee states that the Appellant's arguments have been fully considered but are not persuasive, and the Appellee responds to certain arguments presented by Appellant. *See* Final Action at p. 2. Appellee does not address all the arguments presented by Appellant with regard to this rejection. For example, Appellee does not address arguments presented by Appellant with regard to claim 19. Therefore, the Appellant presents the following arguments regarding 35 U.S.C. § 112, since it is unclear whether the rejection was actually maintained.

1.   Claim 1

In a previous Office Action ("Previous Action"), Appellee rejected claim 1. In the Final Action, while not maintaining the rejection, Appellee responded to Appellant's arguments regarding claim 1. Appellee takes issue with claim 1 and asserts that the claim recites three separate types of individual mail pieces. Furthermore, the Final Action also asserts that the claim language is unclear as to how many mail pieces are being discussed on the role of the individual mail pieces at various points throughout the system and their relation to the claimed

process. Finally, the Final Action cites lack of antecedent basis for the limitation of "the individual mail piece being physically created and processed" in claim 1.

Appellant respectfully disagrees with the reasoning set forth in the Final Action. Claim 1 clearly states that the high-speed processing system transfers "a plurality of mail pieces." Postage is calculated for "each individual mail piece of said plurality of mail pieces," which clearly refers to the above-recited plurality of mail pieces. The postage computing device is operable to generate indicia for "a mail piece of said plurality of mail pieces" (which clearly refers to one of the above-recited "plurality of mail pieces") in parallel with "the mail piece of said plurality of mail pieces" being physically created and processed. The recitation "the mail piece" clearly refers back to the recitation of "a mail piece." Appellee attempts to read ambiguity into the claim language. However, when the claim language is viewed as a whole, there can be no reasonable interpretation, other than the one set forth by Appellant above. As such, Appellant submits that the rejection should be overturned.

2.   Claims 2-7, 9, and 10

Claims 2-7, 9, and 10 depend from claim 1 and were rejected because of their dependency on claim 1. Thus, these claims are allowable for the same reasons as set forth with regard to claim 1. Appellant respectfully requests that the Board reverse the rejections, under 35 U.S.C. § 112 of claims 2-7, 9, and 10.

3.   Claim 11

The Final Action takes issue with claim 11 and asserts that the claim recites three separate types of individual mail pieces. The Final Action also asserts that the language is unclear as to how many mail pieces are being discussed, the role of the individual mail pieces at various points throughout the system, and their relation to the claimed process. Further, the Final Action cites lack of antecedent basis for the limitation of "the individual mail piece being physically created and processed" in claim 11.

Appellant respectfully disagrees with the reasoning set forth in the Final Action. Claim 11 clearly states that the high-speed processing system transfers "mail pieces." Postage is

calculated for "each mail piece of said mail pieces," which clearly refers to the above-recited mail pieces. The postage computing device is operable to generate indicia for "an individual mail piece" (which clearly refers to one of the above-recited "mail pieces") in parallel with "the individual mail piece" being physically created and processed. The recitation "the individual mail piece" clearly refers back to the recitation of "an individual mail piece." Appellee attempts to read ambiguity into the claim language. However, when the claim language is viewed as a whole, there can be no reasonable interpretation, other than the one set forth by Appellant above. As such, Appellant submits that the rejection should be overturned.

4. Claims 12, 14-18, and 22

Claims 12, 14-18, and 22 depend from claim 11 and were rejected because of their dependency on claim 11. Thus, these claims are allowable for the same reasons as set forth with regards to claim 11. Appellant respectfully requests that the Board reverse the rejections under 35 U.S.C. § 112 of claims 12, 14-18, and 22.

5. Claim 19

Appellant presented arguments regarding the rejection of claim 19 under 35 U.S.C. § 112 in the Previous Response. These arguments were not addressed by Appellee in the Final Action. Furthermore, the Final Action is unclear as to whether this rejection has been maintained. Thus, Appellant presents the same argument that was presented in the Previous Response.

The Previous Action rejected claim 19 as being unclear as to whether the "without weighing" recitation actually refers to the weights of the documents alone or both the documents and the mail piece. Appellant notes that the claim recites, "without weighing the individual mail piece" and that the documents are "included in" the mail piece. Hence, the mail piece includes the documents.

Additionally, the Previous Action stated that the lack of punctuation in claim 19 further made the plain meaning of the limitation unclear. While Appellant disagrees that this informality creates any ambiguity which arises to the level of causing a §112 rejection, claim 19 was amended to clarify its language.

As a result, Appellant submits that claim 19 is in proper order. Therefore, Appellant submits that the rejection of claim 19 under 35 U.S.C. § 112, second paragraph, be overturned.

6.   Claim 20

Claim 20 depends from claim 19 and was rejected because of its dependency on claim 19. Thus, this claim is allowable for the same reasons as set forth with regard to claim 19. Appellant respectfully requests that the Board reverse the rejection of claim 20 under 35 U.S.C. § 112.

B.   Second Grounds for Rejection

Claim 1 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Freeman* in view of *Leon*. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be obvious from the prior art. *See In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Because the proposed combinations fail to teach multiple claim limitations as asserted by Appellee, Appellant submits that the present rejections should be withdrawn.

Claim 1 recites, "said postage computing device operable to use said calculated postage value to generate an information based postage indicia for a mail piece of said plurality of mail pieces in parallel with the mail piece of said plurality of mail pieces being physically created and processed by at least one mail processing component." As an initial matter, the Office Action's failure to give proper weight to this limitation, as outlined above, had an adverse effect as to its substantive rejections. *Freeman* teaches a device that feeds a mail piece to a weighing module, after weighing the mail piece, the postage meter is set, the mail piece is then transferred through the metering system. (*See Freeman* Abstract). It is clear that everything in this process is done in serial. Accordingly, *Freeman* does not teach a device operable to generate information based postage indicia for an individual mail piece in parallel with the mail piece being physically processed.

Additionally, in the Previous Response by Appellant, claim 1 was amended to recite that the postage based indicia is being generated in parallel with the mail piece being *created* and *processed*. This is clearly not taught by *Freeman*. Appellee relies on *Freeman* to teach this limitation. *Freeman*, col. 9, lines 33-40 (the same portions cited before the amendment).

However, there is no discussion in the cited portions relating to the creation of a document, let alone postage based indicia being generated in parallel with the mail piece being created <u>and</u> processed. Further, as stated above, everything in *Freeman* is done in a serial fashion. *Freeman* clearly requires that the mail piece be printed, folded, inserted, etc., before it goes on to be weighed, and so forth. Thus, the creation of the document is accomplished long before postage begins to be calculated. It is further noted that the *Leon* reference does not cure this deficiency, nor is it relied upon by Appellee to do so. For at least the above reasons, the proposed combination fails to teach all of the limitations of claim 1. Accordingly, Appellant submits that the rejection should be overturned.

C. Third Grounds for Rejection

1. Claim 2

Claim 2 is allowable at least because it depends on independent claim 1. Further, claim 2 recites, "a quality control unit for monitoring the postage value calculated by the postage computing device." The Final Action relies on *Chang* (col. 3, lines 10-14) to teach this limitation. This portion of *Chang* discusses an error handling task which maintains mail piece integrity in the event that the mailing system experiences a fault. A reading of the rest of the *Chang* reference makes clear that the "faults" being monitored by the system are occurrences such as mechanical failure, out of paper, etc. Nothing in *Chang*, teaches performing quality control monitoring of a postage value that is calculated by a computing device.

The Final Action maintains that "a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art . . . <u>if the prior art structure is capable of performing the intended use, then it meets the claim</u>." (Emphasis added). While Appellant disagrees that the claim merely recites intended use, Appellant notes that Appellee never asserts, nor does he indicate, any teaching in *Chang*, that the error handling task discussed can, in fact, monitor the postage value calculated by the postage computing device. In the Final Action, Appellee states that "*Chang* was relied upon to show that monitoring in a postage environment was old and well known at the time of the invention." However, this statement does not assert, or indicate any teaching in Chang, that the error

handling task can monitor postage value calculated by the postage computing device. Further, as shown above, there is no quality control structure in *Chang*, which functions for monitoring the postage value calculated by the postage computing device. Therefore, Appellant submits that the rejection should be overturned.

2. Claims 5 and 6

Claims 5 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Freeman* in view of *Leon* in further view of U.S. Patent No. 5,612,888, to Chang et al. (hereinafter "*Chang*"). Claims 5 and 6 depend directly from claim 1, and thus, inherit the limitations of their corresponding independent claim. As shown above, the *Freeman* reference fails to teach all of the limitations of claim 1. Further, neither *Leon* nor *Chang* are relied on to remedy these deficiencies. Therefore, the proposed combination fails to render claims 5 and 6 obvious.

D. Fourth Grounds for Rejection

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Freeman* in view of *Leon* in further view of U.S. Patent No. 6,041,569, to Freeman et al., (hereinafter "*Freeman 2*"). Claim 7 depends directly from claim 1, and thus, inherits the limitations of its corresponding independent claim. As shown above, the *Freeman* reference fails to teach all of the limitations of claim 1. Further, neither *Leon* nor *Freeman 2* is relied on to remedy these deficiencies. Therefore, the proposed combination fails to render claim 7 obvious. Thus, Appellant submits that the rejection should be overturned.

E. Fifth Grounds for

1. Claims 3, 9, and 10

Claims 3, 9, and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Freeman* in view of *Leon* in further view of U.S. Patent No. 6,173,274, to Ryan, Jr., (hereinafter "*Ryan*"). Claims 3, 9, and 10 depend either directly or indirectly from claim 1, and thus, inherit the limitations of their corresponding independent claim. As shown above, the *Freeman*

reference fails to teach all of the limitations of claim 1. Additionally, neither *Leon* nor *Ryan* is relied on to remedy these deficiencies. Therefore, the proposed combination fails to render claims 3, 9, and 10 obvious. Thus, Appellant submits that the rejections should be overturned.

        2.   Claim 4

Claim 4 is allowable at least because it depends on independent claim 1. Appellant's additional arguments that follow were previously presented but not addressed by Appellee in the Final Action. Claim 4 recites, "wherein the mail processing components include a folder and an inserter." The Final Action admits that *Freeman* does not teach these limitations and relies on *Ryan* to remedy this problem. Appellant submits that the Final Action fails to address the limitations of this claim in the context of the independent claim. Since the folder and inserter are "mail processing components," they are physically processing the mail piece *in parallel* with the generation of the information based postage indicia. The indicia of *Freeman* cannot be generated until after the mail piece is created, folded, inserted in the envelope, and placed on a scale. Thus, adding the teachings of *Ryan* would simply add more steps in an already serialized process. In other words, the proposed combination does not create the claimed invention because merely adding a folder, and inserter on the front end of *Freeman*, and maintaining the functionality of *Freeman*, would not produce a system which generates an information based postage in parallel with the individual mail piece being physically created and processed by at least one of a folder, and an inserter. Therefore, the proposed combination is not proper and does not render claim 4 obvious.

        F.   Sixth Grounds for Rejection

Claims 11, 12, 15, 16, and 18 are rejected under 35 U.S.C. § 103(a) as being anticipated by *Ryan* in view of *Freeman* in further view of *Leon*. In order for a combination of references to render a claim obvious, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Because the proposed combination fails to teach all of the claim limitations of independent claim 11, Appellant requests that the present rejection be overturned.

1.   Claim 11

Claim 11 recites "generating an information based postage indicia, using said calculated postage value, for an individual mail piece of said each mail piece of said mail pieces in parallel with the individual mail piece being physically processed by one or more of the components, including at least one of a folder and an inserter, of said high-speed mail processing system." The Final Action admits that *Ryan* does not teach these limitations and relies on *Freeman* to remedy the issue. However, as shown above when discussing claim 1, *Freeman* teaches a device that feeds a mail piece to a weighing module. After weighing the mail piece, the postage meter is set and the mail piece is then transferred through the metering system. (*See Freeman* Abstract). It is clear that everything in this process is done in serial. Accordingly, *Freeman* does not teach a device operable to generate information based postage indicia for an individual mail piece in parallel with the mail piece being physically processed.

Further, claim 11 requires that the postage based indicia is generated in parallel when the mail piece is being physically processed by one or more of the components including at least one of a folder and inserter. This is clearly not taught by *Freeman*. Appellee points to col. 9, lines 33-40 as teaching this limitation, but the cited portions do not discuss a folder, inserter, or using such in a parallel process. Additionally, any combination using *Ryan* and *Leon* also fails to teach this aspect. For at least the above reasons, *Freeman* fails to teach all of the limitations of claim 11. Accordingly, Appellant submits that the rejection should be overturned.

2.   Claim 12

Claim 12 is allowable at least because it depends on independent claim 11. Moreover, claim 12 recites, "folding the mail pieces; inserting the mail pieces into an envelope; and printing the calculated postage on each envelope." The Final Action relies on *Ryan* to teach this limitation, but relies on *Freeman* to teach the limitation of generating a information based postage indicia (as required by base claim 11). Appellant submits that the Final Action fails to address the limitations of this claim in the context of the independent claim. Since the folding and inserting are part of the "mail processing," they are performed *in parallel* with the generation of the information based postage indicia. The indicia of *Freeman* cannot be generated until after

the mail piece is created, folded, inserted in the envelope, and placed on a scale. Thus, adding the teachings of *Freeman* to the system of *Ryan* would simply add more steps in an already serialized process. In other words, the proposed combination does not create the claimed invention because merely adding generating information based postage indicia to the back end of *Ryan*, and maintaining the functionality of *Ryan*, would not produce a system which generates an information based postage in parallel with the individual mail piece being physically created, processed, folded and inserted. Therefore, the proposed combination is not proper and does not render claim 12 obvious. Accordingly, Appellant submits that this rejection should be overturned.

3. Claims 15, 16, and 18

Claims 15, 16, and 18 depend either directly or indirectly from independent claim 11, and thus, inherit each and every limitation of independent claim 11. As a result, claims 15, 16, and 18 are allowable for at least the reasons set forth above, and the rejections of these claims should be overturned. Further, dependent claims 15, 16, and 18 contain aspects that are patentable in their own right.

G. Seventh Grounds for Rejection

Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ryan* in view of *Freeman* in further view of *Leon* and *Manduley*. Claim 14 depends directly from claim 11, and thus, inherits the limitations of this independent claim. Therefore, the proposed combination, fails to render claim 14 obvious. Accordingly, Appellant submits that the rejection should be overturned.

H. Eighth Grounds for Rejection

Claim 17 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ryan* in view of *Freeman* in further view of *Leon* and *Chang*. Claim 17 depends directly from claim 11, and thus, inherits the limitations of its corresponding independent claim. Therefore, the proposed combination, fails to render claim 17 obvious. Accordingly, Appellant submits that the rejection should be overturned.

I.   Ninth Grounds for Rejection

Claim 19 is rejected under 35 U.S.C. § 103 as being anticipated by *Ryan* in view of *Freeman* in further view of *Leon,* and *Rasmussen.* Claim 19 recites, "said postage value calculated without weighing the individual mail piece, using information from said processing instructions, and is implemented in parallel with the high-speed processing of said mail piece." Appellee relies on *Rasmussen* to teach this limitation. Rasmussen, [0012], [0013].

Appellant respectfully submits that nothing in the cited art teaches using processing instructions to calculate postage without weighing the individual mail piece in parallel with, and controlling, the high-speed processing of the mail piece, nor has the Appellee shown otherwise. There is no teaching of such a parallel process in *Rasmussen.* Additionally, as shown above, a combination of *Freeman, Ryan,* and *Leon* does not create a system having such parallel capabilities. The combination of *Freeman, Ryan* and *Leon* could only operate in a serial manner. Adding the teachings of *Rasmussen* would not remedy this deficiency. Accordingly, Appellant respectfully requests that the rejection be overturned.

J.   Tenth Grounds for Rejection

Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ryan* in view of *Freeman* in further view of *Leon* and *Rasmussen* and Official Notice. Claim 20 depends from claim 19, and thus, inherits the limitations of its corresponding independent claim. As shown above, the proposed combination fails to teach all of the limitations of claim 19. Therefore, the proposed combination fails to render claim 20 obvious. Accordingly, Appellant submits that the rejection should be overturned.

Moreover, in the Previous Response Appellant asserted that Appellee's taking of Official Notice was improper. The Final Action maintains that "a high-speed printer capable of printing the postage value at any position or orientation on the email pieces is old and well known" (Final Action, p. 14). Generally, mailing systems must singulate the pieces and orient them so as to align with the postage printer. It is noted that the *Freeman* reference singulates the mail pieces and uses a printer that requires mail pieces oriented prior to printing. (*See Freeman* Abstract, Fig. 1). Additionally, the system taught in *Ryan* illustrates that the mail pieces are oriented,

thereby not needing a printer of the type recited in claim 20. (*See Ryan* Fig. 1). In fact, six different references were applied in a Previous Action, and none of them contemplated what was being asserted as well known. Accordingly, in a Previous Response, Appellant requested documentation pursuant to M.P.E.P. 2144.03 showing a printer in a high-speed mail processing system capable of printing the postage value at any position or orientation on the mail pieces. In the Final Action, Appellee provides U.S. Patent No. 5,468,945, to Hugget et al. ("*Hugget*"). However, *Hugget* does not describe a printer at all, let alone a printer capable of printing the postage value at any position or orientation on a mail piece. Instead, *Hugget* describes a system for reading or interpreting bar codes placed at random positions or orientations on a mail piece. Thus, for a second time, Appellee fails to provide support for taking Official Notice. The proposed combination does not teach "a high-speed printer that is capable of printing the postage value at any position or orientation on the mail pieces" and the Appellee has failed to provide any evidence to support his taking of Official Notice. Therefore, Appellant requests that the rejection be overturned.

K.   Eleventh Grounds for Rejection

Claim 22 is rejected under 35 U.S.C. § 103(a) as being anticipated by *Ryan* in view of *Freeman* in further view of *Leon* and *Rasmussen*. Claim 22 depends from claim 19, and thus, inherits the limitations of its corresponding independent claim. As shown above, the proposed combination fails to teach all of the limitations of claim 19. Therefore, the proposed combination fails to render claim 22 obvious. Accordingly, Appellant submits that the rejection should be overturned.

VIII.   CLAIMS APPENDIX

A copy of the claims involved in the present Appeal are attached hereto as Appendix A.
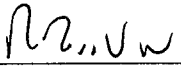
IX.   EVIDENCE APPENDIX

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by Appellee is being submitted.

X. RELATED PROCEEDINGS APPENDIX

No related proceedings are referenced in II. above, hence copies of decisions in related proceedings are not provided.

Dated: May 8, 2009   Respectfully submitted,

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CLAIMS APPENDIX A

1.   A high-speed mail processing system having a conveyor system for transferring a plurality of mail pieces among two or more mail processing components and a controller for directing the operations of the components, the system comprising:

a postage computing device for separately calculating postage value due for each individual mail piece of said plurality of mail pieces, said postage computing device operable to use said calculated postage value to generate an information based postage indicia for a mail piece of said plurality of mail pieces in parallel with the mail piece of said plurality of mail pieces being physically created and processed by at least one mail processing component of said two or more mail processing components;

a postage application printer positioned to print said information based postage indicia on the mail piece of said plurality of mail pieces that is being moved by the conveyor system, wherein said information based postage indicia is available for printing by said postage application printer at the time the mail piece of said plurality of mail pieces arrives at said postage application printer; and

a computer processing system for storing information related to the processing of each individual mail piece of said plurality of mail pieces and for providing the controller with the processing information.

2.   The system of claim 1 further comprising:

a quality control unit adapted to monitor the postage value calculated by the postage computing device.

3.   The system of claim 1 further comprising:

a mail piece printer for printing documents that will be combined into the mail pieces.

4.   The system of claim 1 wherein the mail processing components include at least one of a folder and an inserter.

5.   The system of claim 1 wherein the controller and the computer processing system are the same device.

6.   The system of claim 1 wherein the controller, the computer processing system and the postage computing device are the same device.

7.   The system of claim 1 wherein the postage application printer is a high-speed ink jet printer.

8.   (Canceled)

9.   The system of claim 1 wherein the postage application prints other information on the mail piece of said plurality of mail pieces in addition to the postage information.

10.   The system of claim 9 wherein the other information includes one or more items selected from the group consisting of:
    marketing information;
    address information; and
    an envelope border.

11.   A method for applying postage to mail pieces in a high-speed mail processing system comprising:
    receiving processing instructions that identify how each mail piece of said mail pieces should be processed;
    controlling the components of the high-speed processing system to comply with the processing instructions;
    individually calculating a postage value for said each mail piece of said mail pieces; and
    generating an information based postage indicia, using said calculated postage value, for an individual mail piece of said each mail piece of said mail pieces in parallel with the individual mail piece being physically processed by one or more of the components, including at least one of a folder and an inserter, of said high-speed mail processing system; and
    printing the calculated postage value on each mail piece of said mail pieces, wherein said information based postage indicia is available for printing at the time the individual mail piece of said each mail piece of said mail pieces arrives at a printer for said printing.

12. The method of claim 11 further comprising:

folding the mail pieces;

inserting the mail pieces into an envelope; and

printing the calculated postage on each envelope.

13. (Canceled)

14. The method of claim 11 wherein the postage value is calculated without weighing the mail pieces.

15. The method of claim 11 further comprising:

printing other information on one or more of the mail pieces in addition to the postage value for that piece.

16. The method of claim 15 wherein the other information includes one or more items selected from the group consisting of:

marketing information;

address information; and

an envelope border.

17. The method of claim 11 further comprising:

performing a quality control analysis on one or more of the calculated postage values.

18. The method of claim 12 further comprising:

printing documents to be included in each mail piece prior to folding the mail piece.

19. A system for processing mail pieces comprising:

means for receiving processing instructions that identify how each mail piece should be processed;

means for controlling the components of a high-speed processing system in accordance with the processing instructions;

means for calculating a postage value for each individual mail piece based upon a count of the number of documents included in each said individual mail piece and weights of the documents, said postage value calculated without weighing the individual mail piece, using information from said processing instructions, and in parallel with the high-speed processing of said mail piece; and

a printer controlled in accordance with the processing instructions, for printing the calculated postage value on each mail piece.

20. The system of claim 19 wherein the printer is a high-speed printer that is capable of printing the postage value at any position or orientation on the mail pieces.

21. (Canceled)

22. The method of claim 11 wherein a weight of each mail piece varies depending upon the number of pages included in each mail piece, and wherein the postage value for each mail piece is calculated based upon a count of the number of pages included for that mail piece and weights of the pages.

APPENDIX B

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by Appellee is being submitted.

APPENDIX C

No related proceedings are referenced in II. above, hence copies of decisions in related proceedings are not provided.